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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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SHAWN BALL,

Petitioner,

v.

ATTORNEY GENERAL OF THE STATE
OF NEVADA, et al.,

Respondents.

Case No. 2:19-cv-00451-KJD-NJK

ORDER

Petitioner has submitted a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 to the Ninth Circuit Court of Appeals, which transferred the petition to this court (see ECF Nos. 1, 2). He states that he seeks to challenge a Nevada state judgment of conviction from 2010, in which he was sentenced to 2 to 5 years (ECF No. 1, p. 1). Petitioner indicates that he is currently incarcerated in Shelby, Montana. This court takes judicial notice of the Nevada Department of Corrections website, which reflects that Ball discharged the Nevada state sentence in April 2012. However, while a petitioner can satisfy the custody requirement if he is released from custody while his federal habeas petition is pending, he must be in custody pursuant to the judgment of conviction that he seeks to challenge at the time he files the federal petition. 28 U.S.C. § 2254(a); *Spencer v. Kemna*, 523 U.S. 1, 7 (1998). Thus, this court has no jurisdiction to entertain this petition.

The court further notes that Ball indicates that he did not appeal or file a state postconviction petition, and therefore, it appears that his claims are unexhausted. But a

1 federal court will not grant a state prisoner's petition for habeas relief until the prisoner
2 has exhausted his available state remedies for all claims raised. *Rose v. Lundy*, 455
3 U.S. 509 (1982); 28 U.S.C. § 2254(b).
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5 Thus, this petition is dismissed with prejudice for lack of jurisdiction.

6 **IT IS THEREFORE ORDERED** that this action is **DISMISSED** for lack of
7 jurisdiction.
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9 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**, as
10 jurists of reason would not find the court's dismissal of this action to be debatable or
11 incorrect.
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13 **IT IS FURTHER ORDERED** that the Clerk shall **ENTER JUDGMENT** accordingly
14 and close this case.
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16 DATED: 10 April 2019.



17 KENT J. DAWSON
18 UNITED STATES DISTRICT JUDGE
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